

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 1 of 19

FACT SHEET

as required by LAC 33:IX.3111 for major LPDES permits, for draft Louisiana Pollutant Discharge Elimination System Permit No. LAR100000 to discharge to waters of the State of Louisiana as per LAC 33:IX.2515.

GENERAL PERMIT NO. LAR100000

AI 83363

PER20090001

DISCHARGES OF STORM WATER FROM CONSTRUCTION ACTIVITIES FIVE (5) ACRES OR MORE

FACT SHEET FOR THE DRAFT LOUISIANA POLLUTANT DISCHARGE ELIMINATION SYSTEM (LPDES) REISSUANCE PERMIT FOR DISCHARGES OF STORM WATER FROM CONSTRUCTION ACTIVITIES THAT DISTURB FIVE (5) ACRES OR MORE TO WATERS OF THE STATE.

Permit No. LAR100000

Issuing Office: State of Louisiana
Department of Environmental Quality
Office of Environmental Services
Water Permits Division
Municipal and General Water Permits Section

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Permit Action: Reissuance of an LPDES General Permit for Discharges from Construction Activities that Disturb Five Acres or More

Date Prepared May 1, 2009

A. COVERED ACTIVITY (LAC 33:IX.2515.A.2.a)

LAC 33:IX.2515.A.2.a and LAC 33:IX.2511.B14.j describe certain construction activities that require storm water permit coverage. The Office of Environmental Services, Water Permits Division, is proposing to reissue the General Permit for Discharges of Storm Water from Construction Activities Five (5) Acres or More. The proposed reissuance general permit continues the provisions in the prior LPDES Storm Water General Permit for Construction Activities Five (5) Acres or More (LAR100000) issued on July 30, 2004, with an effective date of October 1, 2004.

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 2 of 19

These types of construction activities are commonly referred to as Phase I construction activities. The permit was first issued by the Environmental Protection Agency (EPA) on September 9, 1992 and reissued under the Louisiana Pollutant Discharge Elimination System (LPDES) on September 23, 1999, and July 30, 2004. The draft reissuance general permit is similar to the 2004 version of the permit, with minor changes.

The reissuance general permit will cover construction activities (including clearing, grading, excavation operations, and/or adding fill material) that result in the disturbance of five acres or more; smaller areas which are part of a larger plan of common development or sale where the area of disturbance is cumulatively at least five acres; and construction activities that disturb less than five acres of land where designated by the Louisiana Department of Environmental Quality (LDEQ). The term "storm water discharges from construction activities" will be used in this document to refer to the variety of storm water discharges from Phase I construction sites that are related to actions commonly occurring on, or in support of, construction, including those that meet the definition of a storm water discharge associated with industrial activity or those that are designated under the designation provisions of LAC 33:IX.2511.

The permit does not provide coverage for construction projects occurring on Federally recognized Indian Country land; such discharges are regulated by the Environmental Protection Agency (EPA).

Singular construction sites with disturbances of less than five acres are not eligible for coverage under this permit unless they are specifically designated for coverage under LAC 33:IX.2511.A.9.a.iv. The Storm Water General Permit for Small Construction Activities (LAR200000) covers construction activities greater than one acre but less than five acres.

Dischargers desiring coverage under this permit must submit a Notice of Intent (NOI) to be covered under the general permit. Unless notified by LDEQ to the contrary, all eligible dischargers who submit a complete and accurate NOI in accordance with the requirements of the permit will be authorized to discharge storm water from construction activities under the terms and conditions of the permit upon the receipt of a hand-delivered NOI by the Office of Environmental Services, Water Permits Division or 48 hours after the postmark date on the envelope that contains the complete and accurate NOI. If warranted LDEQ may deny coverage under the general permit and require submittal of an application for an individual LPDES permit or an alternative LPDES permit. A storm water pollution prevention plan (SWPPP) continues to be required and must provide for compliance with the terms and schedule of the SWPPP beginning with the initiation of construction activities. The proposed permit requires the submittal of a Notice of Termination (NOT) form (found in Appendix C of the permit) when a construction project is complete and the site has been stabilized in accordance with Permit Part VIII.

The 2004 version of the permit authorizes discharges from support activities related to the construction site. The proposed permit also authorizes discharges from the following support activities: concrete or asphalt batch plants located at a construction site; equipment staging areas; material storage areas; excavated material disposal areas; borrow areas; etc.

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 3 of 19

Conditions and requirements of the previous permit remain substantially the same. Changes from the previous permit include:

1. Clarification of the extent of coverage was added to Part I.A. in the permit, and Items C and D in the Fact Sheet.
2. Additional discussion was added in Item G in the Fact Sheet to clarify the applicability of state water quality and TMDL provisions.
3. Part I.A.3.g. of the permit was added to clarify the responsibility for operator compliance with water quality standards/TMDL requirements.
4. Part I.A.3.g of the permit was updated to specify that the operators who discharge into areas with an LDEQ-approved or established TMDL must develop and implement a SWPPP that clearly states which BMPs were selected for the site and describes how the design and implementation of the selected BMPs are expected to ensure that storm water discharges from the construction site are in compliance with the established TMDL.
5. Part I.B.c. was expanded to clarify that only one NOI needs to be submitted to cover all of the permittee's activities on the common plan of development or sale. It is not necessary to submit a separate NOI for each separate lot in a residential subdivision or for two separate buildings being constructed at a manufacturing facility, provided the SWPPP covers each area that the permittee will be disturbing.
6. Part I.B. was updated to clarify that for subdivision and commercial developments, an NOI shall be submitted by the owner/developer, the general contractor, and each individual builder who will be constructing in the subdivision or commercial development.
7. Part III.D was updated to outline requirements for permittees to follow should LDEQ determine that after permit authorization, the storm water discharges from the permitted site have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard.
8. Part IV.D.2.(2) was updated to clarify that final stabilization often takes weeks or even months to accomplish, especially during times of low rainfall or during the colder months of the year. The permit clarifies that the permittee is required to continue routine inspections until the final stabilization requirements of the permit are met, and that a Notice of Termination (NOT) should not be submitted until the final stabilization requires of the permit are met. The definition of final stabilization was expanded in Part IX of the permit to clarify that a uniform perennial vegetative cover must be established over 70% of all unpaved areas to meet the vegetative cover requirement for final stabilization. A site does not meet the final stabilization permit requirement until self-sustaining native vegetation is established uniformly over each disturbed area of the site. Stabilizing seven of ten slopes, or leaving an area equivalent to 30% of the disturbed area completely unstabilized will not satisfy the uniform vegetative cover standard.

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 4 of 19

9. Part IV.D.2.a.(1) was updated to include a new item (e): Trapped sediment must be removed from a silt fence before the deposit reaches 50 percent of the above-ground fence height (or before it reaches a lower height based on manufacturer's specifications.)

10. Part IV.D.3 and Part IV.D. 4 was updated to include the requirements that employees and subcontractors should be made aware of the applicable control measures implemented at the site so that they follow applicable procedures.

11. Part IV.D.4.a was updated to include: "Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable."

12. Part IV.D.4.c was updated to read as follows:

c. For each inspection required above, you must complete an inspection report. At a minimum, the inspection report must include:

1. The inspection date;
2. Names, titles, and qualifications of personnel making the inspection;
3. Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
4. Weather information and a description of any discharges occurring at the time of the inspection;
5. Location(s) of discharges of sediment or other pollutants from the site;
6. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
7. Location(s) of BMPs that need to be maintained;
8. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
9. Corrective action required including implementation dates.

The inspection report which includes the information listed in items 1-9 above and all actions taken in accordance with Part IV.D.4.b of the permit shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VI.G of this permit.

13. Part VI.G was updated to specify that all reports required by the permit, including the SWPPP, shall be signed by a person described in Part VI.G.1.a or by a duly authorized representative of that person and that a signed and dated copy of the written authorization shall be included in the SWPPP.

Fact Sheet for General Permit Number LAR100000 – AI 83363
Page 5 of 19

14. Part VI.U.8 of the permit was updated to remove requirements for submittal of reports/forms to the LDEQ regional offices. The copies are no longer needed due to the availability of documents that are received by the agency on the agency's comprehensive electronic file system.

15. Part VI.W.8 of the permit was updated to require that additional monitoring information (all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for permit coverage) be retained by the permittee for a period of at least three years from the date of the sample, measurement, report or application.

16. Defined "qualified personnel" in Part IX of permit.

17. The term "alternative permit" is not defined in the current version of the permit. A definition for the term has been included in the reissuance general permit.

18. All internet addresses that are referenced in the current permit were updated in the renewal permit as these addresses often change when the Department's web site is updated.

19. Minor changes were made in Part I.A of the permit and in Addendum A to remove references to federal regulations that are not applicable to state actions.

B. AUTHORITY

The Office of Environmental Services, Water Permits Division, through its permitting system authorized under the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), is responsible for ensuring that discharges to the waters of the State are identified, and disposed of in accordance with applicable state regulations. In accordance with the Memorandum of Agreement between the State of Louisiana and the U.S. Environmental Protection Agency and LAC 33:IX.2301, et seq., the Department has the authority to administer the LPDES General Permits Program.

Under the authority of Section 402 of the Clean Water Act, 40 CFR 123.25 (a) (9), and LAC 33:IX.2515.A.2.a., a general permit may be written to regulate storm water point source discharges.

C. ELIGIBILITY

1. Activities Covered

Operations covered by this general permit continue to include those construction activities (including clearing, grading, excavation operations, and/or adding fill material) that result in the disturbance of five acres or more; smaller areas which are part of a larger plan of common development or sale where the area of disturbance is cumulatively at least five acres; and construction activities that disturb less than five acres of land where designated by the Louisiana Department of Environmental Quality (LDEQ). Road building, construction of residential houses, office buildings, industrial buildings, demolition accompanied by a land disturbance, and runways are examples of construction activities. The term "storm water discharges from construction activities" will be used in this document to refer to the variety of storm water discharges from Phase I construction sites that are related to actions commonly occurring on, or in support of, construction,

Fact Sheet for General Permit Number LAR100000 – AI 83363
Page 6 of 19

including those that meet the definition of a storm water discharge associated with industrial activity or those that are designated under the designation provisions of LAC 33:IX.2511. Repaving of roads and reworking of utility lines are not regulated under this permit unless five or more acres of underlying and/or surrounding soil are cleared, graded or excavated as part of the operation. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a site is not a regulated construction activity.

Construction sites with disturbances of less than five acres, and which are not part of a larger common plan of development of at least five acres, are not eligible for coverage under this permit unless they are specifically designated for coverage under LAC 33:IX.2511.A.1.e and A.9.a.

2. Agricultural Activities Not Covered

The clearing of land solely for agricultural purposes is NOT a regulated activity so is exempted from LPDES permitting requirements. Projects on cultivated croplands are not regulated, as these are already "disturbed" areas.

3. Oil and Gas Construction Activities Not Covered

Storm water discharges at field activities or operations associated with oil and gas exploration, production, processing, or treatment or transmission, are regulated in accordance with the latest provisions of LAC 33:IX.2511.A.1.e.iv.2. Facilities who propose construction activities necessary to prepare a site for drilling and the movement and placement of drilling equipment, constructing access roads, drilling waste management pits, in field treatment plants and the transportation infrastructure (e.g., crude oil and natural gas pipelines, natural gas treatment plants and both natural gas transmission pipeline compressor and oil pumping stations) necessary for the operation of most producing oil and gas fields should consult the latest edition of LAC 33 IX to determine if their construction activities are regulated.

4. Routine Maintenance Activities Not Covered

A regulated construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility/structure. If a construction activity involves the disturbance of less than five acres of land and is only performed to maintain its original purpose, then LPDES permit coverage under this general permit is not required to discharge storm water from that construction activity. Such activities include replacing structures that are due for and require maintenance. **In order to qualify as a routine maintenance activity, the land disturbance should not go beyond the footprint of the previous structure.** Examples of routine maintenance activities include:

- Berm Repair or Topsoil Replacement Along Shoulders - placing berm material or topsoil on shoulders adjacent to pavement to eliminate drop-offs;
- Bridge Abutment Repairs, Deck Overlays, and Deck Replacement;
- Bridge Replacement without widening;
- Chip Sealing – placing asphalt or polymer binder and stone on existing roads;
- Culvert Replacement/Repair/Lining – replacing/repairing/or relining a culvert with the same line, grade, and hydraulic capacity and within US Army Corps of Engineers Nationwide Permit (NWP) #3 parameters;

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 7 of 19

Curb Repairs – repairing existing curbing along a roadway;
 Ditch Cleanout – maintaining or restoring original flow line and cross-section only;
 Fence Repair/Replacement;
 Full Depth Pavement Repairs – isolated repairs of pavement build-up down to sub-grade;
 Guardrail Installation/Replacement – installing or repairing with minor grading work to create proper grade for end assemblies;
 Lighting Maintenance;
 Linear Grading – reshaping of graded shoulders to establish proper drainage away from pavement;
 Loop Detector Repairs – repairing loop detectors in existing pavement;
 Noise Wall Repair;
 Partial Depth Pavement Repairs – isolated repairs of surface courses of pavement;
 Pothole Filling;
 Resurfacing – replacing several inches of asphalt wearing course by milling existing surface and replacing with new material;
 Road Re-paving with new asphalt provided the activity does not expose soil to storm water;
 Road Replacement without adding any lanes;
 Sign Repair/Maintenance – installing or repairing traffic signs and poles/posts;
 Signal Installation/Maintenance – installing or repairing traffic signals and poles/posts; and
 Tree/Brush Removal – when it is considered a road maintenance activity.

D. EXCLUSIONS

This general permit **shall not** apply to:

1. Storm water discharges associated with industrial activity that originate from the site after construction activities have been completed and the site has undergone final stabilization.
2. Non-storm water discharges (except certain non-storm water discharges specifically listed in this general permit). However, this permit can authorize storm water discharges from construction where the discharges are mixed with non-storm water discharges that are authorized by a different LPDES permit.
3. Storm water discharges from construction activities that are covered by an existing LPDES permit. However, any permittee covered by another permit may request that the other permit be terminated if the permitted source or activity is also eligible for coverage under this general permit. Upon written approval of that request by this Office, the permittee will be covered by this general permit, and the other permit terminated.
4. Storm water discharges from construction activities that LDEQ has determined to be or may reasonably be expected to be causing or contributing to a violation of a water quality standard.
5. Storm water discharges from construction activities and storm water discharge-related activities, if the discharges are likely to adversely affect a listed endangered or

threatened species or its critical habitat (unless in compliance with specific Endangered Species Act (ESA) related conditions in the permit).

6. Storm water discharges from construction activities and storm water discharge-related activities, if the discharges are not in compliance with the National Historic Preservation Act (NHPA).

E. DISCHARGE LOCATION

This general permit shall cover discharges to state waters within the geographic boundaries of the State of Louisiana.

F. BASIS FOR EFFLUENT LIMITATIONS AND THE STORM WATER MANAGEMENT PROGRAM

The storm water management program proposed in this general permit is based on the previous permit, EPA's 1996 "Interim Permitting Approach for Water Quality-Based Effluent Limitation in Storm Water Permits," and EPA's November 2002 memo on "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocation (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs."

G. STATE WATER QUALITY STANDARDS

The proposed permit would require as an eligibility condition that covered dischargers not cause or contribute to a violation of a state water quality standard. New or existing discharges of a particular pollutant are prohibited where there is a TMDL unless the discharge is consistent with the TMDL. If a discharge is not/will not meet these requirements, the operator must seek coverage under an alternative permit.

If violations remain or recur, then coverage under the permit is automatically terminated and alternate coverage must be obtained. Compliance with this requirement does not preclude any enforcement activity as provided by the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.) for the underlying violation.

This permit will not authorize the discharge of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been either established or approved by the LDEQ unless the discharge is consistent with that TMDL. During determination of eligibility for coverage under the permit, **new dischargers** (see LAC 33:IX.2313) to a 303(d) waterbody must determine that their proposed discharges will be in compliance with LAC 33:IX.2317.A.9. In essence, a new discharger is one initiated after August 13, 1979, and not previously permitted. Any discharger (**both existing and new**) to a waterbody for which there is an approved TMDL must confirm that the TMDL allocated a portion of the load for storm water point source discharges if the proposed discharges will contain the pollutant(s) for which the waterbody is impaired or the TMDL developed. Such discharges are expected to be rare for the wastewater types covered by the reissuance permit because the required control/prevention measures are designed to prevent the release of these pollutants in storm water. However, the permit stipulates that operators who discharge to a receiving stream with an LDEQ-approved or established TMDL must develop and implement a SWPPP that clearly states

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 9 of 19

which BMPs were selected for the site and describe how the design and implementation of the selected BMPs are expected to ensure that storm water discharges from the construction site are in compliance with the established TMDL.

In a situation where an LDEQ-approved or established TMDL has specified a general wasteload allocation applicable to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL, the operator should consult with LDEQ to confirm that adherence to a SWPPP that meets the requirements of this permit will be consistent with the approved TMDL. Where an LDEQ-approved or established TMDL has not specified a wasteload allocation applicable to construction storm water discharges, but has not specifically excluded these discharges, adherence to a SWPPP that meets the requirements of this permit will be assumed to be consistent with the approved TMDL. If the LDEQ-approved or established TMDL specifically precludes such discharges, the operator is not eligible for coverage under this permit.

The list of impaired waterbodies (sometimes referred to as 303(d) waterbodies) may be accessed on the LDEQ Internet site at <http://www.deq.louisiana.gov/portal/> or obtained from the Office of Environmental Services, Water Permits Division. Applicants are instructed to go through the following links to view the list on the LDEQ Internet web site: INFO FOR Citizens – Surface and Ground Water Quality Assessment – Quick Link to Water Quality Assessments in Louisiana – Water Quality Assessments – 2006.

Where a discharger is already operating under the permit and is later discovered to cause or have the reasonable potential to cause or contribute to the violation of a state water quality standard, the permitting authority will notify the operator of such violation(s) and the permittee shall take all necessary actions to ensure that future discharges do not cause or contribute to the violation of a water quality standard and document these actions in the SWPPP. If violations remain You must select, install, implement and maintain control measures at your construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general, except in situations explained below, storm water controls developed, implemented, and updated consistent with the other provisions of Part III are considered as stringent as necessary to ensure that your discharges do not cause or contribute to an excursion above any applicable water quality standard.

Dischargers covered under this permit shall not cause or have the reasonable potential to cause or contribute to a violation of a water quality standard. At any time after authorization, LDEQ may determine that storm water discharges from a permitted site may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, LDEQ will require that the permittee:

- i. Modify the site's storm water controls in accordance with Part IV.C of the permit to address adequately the identified water quality concerns;
- ii. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or
- iii. Cease discharge of pollutants from construction activity and submit an individual application according to permit Part VI.L.

All written responses required under Part III.D of the permit must include a signed certification consistent with Part VI.G.2.

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 10 of 19

If violations remain or recur, then coverage under this permit may be terminated by the permitting authority and an alternative permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act and Environmental Quality Act for the underlying violation.

H. ENDANGERED SPECIES ACT

The U. S. Fish and Wildlife Service (USFWS) issued a letter of no objection for the issuance of the current LPDES LAR100000 permit that expires September 31, 2009. Section II.3 of the Memorandum of Understanding (MOU) from the USFWS dated November 17, 2008, notes that no coordination with the USFWS is required for the reissued LAR100000. The MOU notes that the effluent limitations in the permit are established to ensure the protection of aquatic life and maintenance of the receiving waters. Therefore, no coordination is required because the general permit is not likely to adversely affect listed species.

In 2004, the USFWS concurrent with our general determination and with our finding that adoption of the NOI procedures are appropriate to assure that automatic authorization to discharge under this general permit is unlikely to adversely affect the conservation of threatened and endangered species in receiving water bodies throughout the state.

Section II.2.7 of the MOU dated November 17, 2008, states that no further coordination with the USFWS is required for the renewal of this general permit because the permit does not contain any changes/modifications in permit limitations or it contains more stringent limitations than the 2004 version of the permit. In accordance with the 2008 MOU, concurrence from the USFWS that the draft general permit adequately addresses impacts that discharges may have on endangered and/or threatened species is not required for the reissuance of this general permit.

I. HISTORIC PRESERVATION ACT

As in the previous version of the permit, an operator is not eligible for permit coverage if: 1) the storm water discharges and best management practices (BMPs) to control storm water runoff do not prevent an effect on a historic property, unless the operator has obtained, and is in compliance with, a written agreement between the applicant and the State Historic Preservation Officer (SHPO) that outlines all measures to be taken by the operator to mitigate or prevent adverse effects to the historic property. When determining permit eligibility, operators are required to establish compliance with requirements and to document such in the SWPPP. An addendum to the permit provides guidance to operators in making this determination.

J. OBTAINING COVERAGE

All dischargers who meet the permit eligibility requirements defined above in Items C and D and in Permit Part I.A. are automatically authorized to discharge storm water from construction sites under the terms and conditions of the permit upon submission of a complete and accurate NOI to LDEQ, Water Permits Division. Applicants are automatically authorized 48 hours after the postmark date on the NOI that is mailed to the Water Permits Division, or at the time that the NOI is hand delivered to LDEQ.

When operational control over plans and specifications and control over the day-to-day activities described above, are held by separate parties, both shall submit an NOI. In cases with only one control party, that party alone is required to submit the NOI.

Any entity with operational control over a portion of a larger project (e.g., one of four homebuilders in a subdivision), is responsible for compliance with all conditions of the general permit as it relates to construction activities on their portion of the project and are required to ensure that their activities on the construction site do not render another party's pollutant discharge controls ineffective. Any entity with operational control over only a portion of a larger project shall either implement their portion of a common SWPPP or develop and implement their own site specific SWPPP.

Dischargers must have developed a Storm Water Pollution Prevention Plan (SWPPP) for the areas of the construction project for which they are the responsible party, and that SWPPP must be implemented upon commencement of construction activities. When operational control over plans and specifications, and control over day-to-day activities are held by separate parties, both parties must comply with the terms and conditions imposed under this general permit upon assuming operational control. In cases with only one control party, that party alone is required to comply with the terms and conditions imposed under this general permit. At construction sites where the operator changes, or where a new operator is added, the new operator(s) must comply with the terms and conditions imposed under this general permit upon assuming operational control over site specifications or commencing work on-site.

Enforceability is automatic to all projects defined under Permit Part I.A. (Applicability), immediately upon the permit effective date. The permit posting and availability requirements included in Part IV.B. (Signature, Plan Review, and Making Plans Available), of the permit provide a real-time demonstration of operators' acknowledgment of accountability under the permit. A record of authorized projects will be maintained by means of the operators' submittal of the Notice of Intent required in Part I.B. (Obtaining Authorization) of the permit.

K. NOTICE OF TERMINATION

Notice of Termination requirements continue from the current version of the permit.

When a construction project is complete and the site has been stabilized in accordance with the permit requirements, the permittee shall submit a Notice of Termination form. The form must be signed and dated and submitted to the LDEQ Water Permits Division within 30 days after one or more of the following conditions have been met:

- a. Final stabilization (see definition Part IX) has been achieved on all portions of the site for which the permittee is responsible (including if applicable, returning agricultural land to its pre-construction agricultural use);
- b. Another operator/permittee has assumed control according to Part VI.G.2.d. over all areas of the site that have not been finally stabilized;
- c. Coverage under an individual or alternative general LPDES permit has been obtained; or

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 12 of 19

- d. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

A Notice of Termination form must also be submitted by the first operator when another operator takes over the responsibilities of a previous operator.

THE FOLLOWING PROVISIONS CONTINUE FROM THE CURRENT PERMIT:

L. OPERATOR RESPONSIBILITY

Permittees with operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., developer or owner), must: (1) ensure that the specifications that they develop meet the minimum requirements of the SWPPP and all other applicable conditions; (2) ensure that the SWPPP indicates the areas of the project where they have operational control over project specifications (including the ability to make modifications in those specifications); (3) ensure all other permittees implementing portions of the SWPPP impacted by any changes they make to the plan are notified of such modifications in a timely manner; and (4) ensure that the portions of the SWPPP for areas of the project for which they are operators indicates the name of parties with day to day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions. If these parties have not been identified at the time the SWPPP is initially developed, the permittee with operational control over project specifications shall be considered to be the responsible party until such time as the authority is transferred to another party (e.g., general contractor) and the plan updated.

Permittees with day-to-day operational control of a construction site must: (1) ensure the SWPPP for portions of the project for which they are operators meets the minimum requirements of Part IV (Storm Water Pollution Prevention Plans) of the permit and identifies the parties responsible for implementation of control measures identified in the plan; (2) ensure that the SWPPP indicates areas of the project where they have operational control over day-to-day activities; and (3) ensure that the SWPPP for portions of the project for which they are operators indicates the name of the party(ies) with operational control over project specifications (including the ability to make modifications in those specifications).

Permittees with operational control over only a portion of a larger construction site (e.g., one of four homebuilders in a subdivision) are responsible for compliance with all applicable terms and conditions of this permit as it relates to their activities on their portion of the construction site, including protection of endangered species and implementation of BMPs and other controls, as required by the SWPPP. Permittees shall ensure either directly or through coordination with other permittees, that their activities do not render another party's pollution controls ineffective. Permittees must either implement their portions of a common SWPPP or develop and implement their own SWPPP.

M. OBTAINING COVERAGE

As described above in Item J, this permit is automatically applicable to all dischargers who meet the Permit Part I.A (Applicability) requirements. Unless notified by LDEQ to the contrary, all dischargers who meet the Part I.A applicability requirements of the permit are automatically

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 13 of 19

authorized to discharge storm water from construction sites under the terms and conditions of the permit. Applicants are automatically authorized to discharge storm water from construction activities 48 hours after the postmark date on the envelope that contains the complete and accurate NOI, or when the complete and accurate NOI is hand delivered to LDEQ. At least one storm water pollution prevention plan (SWPPP) shall be developed for each construction project or site covered by this permit. The plan shall provide for compliance with the terms and schedule of the SWPPP beginning with the initiation of construction activities.

Written notification of intent to be covered under this general permit is required. Submittal of a complete and accurate Notice of Intent (NOI) form to the LDEQ Water Permits Division is required for activities that are eligible for coverage under this general permit. Authorization to discharge under the permit is automatic to:

1. Parties with operational control over project specifications, (the owners and/or developers);
2. Other parties with day-to-day operational control of activities at a project site; and/or
3. Construction sites having storm water discharges where the operator changes, (including projects where an operator is added during any phase of the construction project).

Coverage under this general permit is automatically extended to all dischargers who meet the eligibility requirements of the permit and who submit a complete and accurate Notice of Intent (NOI) in accordance with the requirement of Part II of the permit. The NOI form that is to be submitted is the CSW-G which is available to the general public. A copy of the NOI can be obtained from the LDEQ Internet web site, and by contacting the LDEQ Customer Service Center by calling 225-219-5337.

Unless notified by LDEQ to the contrary, all eligible dischargers who submit a complete and accurate NOI in accordance with the requirements of the permit are authorized to discharge storm water from construction activities under the terms and conditions of the permit upon the receipt of a hand-delivered NOI by the Office of Environmental Services, Water Permits Division or 48 hours after the postmark date on the envelope that contains the complete and accurate NOI.

An operator who submits an NOI with errors will be notified and is not authorized to discharge storm water from construction activities until the errors or deficiencies have been corrected and the corrected NOI has been delivered to LDEQ. If warranted, LDEQ may deny coverage under this general permit and require submittal of an application for an individual LPDES permit (see Part VI.L of the permit).

Operators at a construction site that is currently permitted under the LPDES version of this permit that expires on September 30, 2009, are not required to submit a new NOI for that construction site. Provided the applicability requirements of the reissued permit are met, these permitted dischargers will be automatically covered under the reissued LPDES permit. Notification of coverage will be sent to each permittee after permit finalization. Three (3) days after the postmark date of the notification of the permittee's coverage under the reissued permit each automatically

Fact Sheet for General Permit Number LAR100000 – AI 83363
Page 14 of 19

reauthorized permittee must take the following actions unless they request and obtain an individual permit:

- (1) For the first 30 days after the effective date of the permit, comply with the terms and conditions of the 2004 construction general permit; and
- (2) No later than 30 days after the postmark date of the notification of the reissued permit, take the necessary actions to comply with all conditions of the reissued permit including updating the SWPPP to incorporate any new/changed requirements in Part IV of the reissued permit.

Operators of construction projects not currently authorized to discharge under the previous version of the construction permit issued in 2004 must:

- (1) Prior to submittal of an NOI, prepare and comply with a SWPPP in accordance with the requirements in the reissued general permit; and
- (2) Submit an NOI according to Part II.A and B of the reissued permit.

An "operator" is any party associated with a construction project that meets either of the following two criteria: (1) the party has operational control over project specifications (including the ability to make modifications in those specifications); or (2) the party has day-to-day operational control of those activities at a project site which are necessary to ensure compliance with the SWPPP or other permit conditions (e.g., they are authorized to direct workers at the site to carry out activities identified in the SWPPP or comply with other permit conditions). A definition for the term operator is included in the permit for clarification.

To ensure effective implementation of the requirements of the permit, the permittee must directly regulate each entity with control over the critical functions identified above in the definition of an operator. Control over project specifications is necessary to ensure that a project design includes appropriate sediment and erosion control measures and post-construction storm water management measures. Day-to-day operational control is necessary to ensure effective implementation of permit requirements at a project site.

The permittee shall make SWPPPs available upon request to: LDEQ; the local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; or to the operator of a municipal separate storm sewer that receives discharges from the site. The copy of the SWPPP that is required to be kept on-site (or locally available) must be made available to LDEQ (or other authorized representative) for review at the time of an on-site inspection. Also, in the interest of public involvement, LDEQ encourages permittees to make their SWPPPs available to the public for viewing during normal business hours.

N. STORM WATER POLLUTION PREVENTION PLAN REQUIREMENTS:

The storm water pollution prevention plan (SWPPP) required by the permit focuses on two major tasks:

1. Providing a site description that identifies sources of pollution to storm water discharges associated with construction activity from the facility; and

2. Identifying and implementing appropriate measures to reduce pollutants in storm water discharges to ensure compliance with the terms and conditions of the permit.

Permittees must implement the applicable provisions of the SWPPP required under Part IV of the general permit as a condition of the permit.

Although certification by an engineer is not required, all SWPPPs shall be developed in accordance with good engineering practices.

O. DEADLINE FOR PLAN PREPARATION

The permit requires that at least one SWPPP be developed for each construction project or site covered by this general permit prior to submittal of the NOI and before beginning construction activities at the site. The plan shall provide for compliance with the terms and schedule of the SWPPP, beginning with the initiation of construction activities. The SWPPP must be updated as appropriate, including certifications.

P. SIGNATURE AND PLAN REVIEW

The SWPPP must be signed in accordance with Permit Part VI.G. (Signatory Requirements), and must be retained on site at the facility which generates the storm water discharge in accordance with Part IV (Retention of Records) of this permit. The permittee shall post a notice near the main entrance of the construction site in accordance with the Part IV.B.2 of the permit. If posting the notice near a main entrance is infeasible due to safety concerns, the notice shall be posted in a local public building. If the construction project is a linear construction project (e.g., pipeline, highway, etc.), the notice must be placed in a publicly accessible location near where construction is actively underway and shall be moved as necessary. The permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site, nor does this permit require that permittees allow members of the public access to a construction site.

LDEQ, or an authorized representative, may notify the permittee at any time that the SWPPP does not meet one or more of the minimum requirements of the permit. Such notification shall identify those provisions of the permit which are not being met by the SWPPP, and identify which provisions of the plan require modification(s) in order to meet the minimum requirements of the permit. Within seven calendar days of receipt of such notification from LDEQ, (or as otherwise provided by LDEQ), the permittee shall make the required changes to the plan and submit to LDEQ, a written certification that the requested changes have been made. LDEQ may take appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet the minimum requirements of the permit.

Q. MAKING PLANS AVAILABLE

The permittee must make SWPPPs available, upon request, to LDEQ, or local agencies approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; or to the operator of the municipal separate storm sewer receiving discharges from the site. The copy of the SWPPP that is required to be kept on-site (or locally available) must

be made available to LDEQ (or authorized representative) for review at the time of an on-site inspection. Also, in the interest of public involvement, LDEQ encourages permittees to make their SWPPPs available to the public for viewing during normal business hours.

R. KEEPING PLANS CURRENT

The permittee must amend the SWPPP whenever:

1. there is a change in design, construction, operation, or maintenance, which has a significant effect on the discharge of pollutants to the waters of the State and which has not otherwise been addressed in the SWPPP;
2. inspections or investigations by site operators, local, state, or federal officials indicate that the SWPPP is proving ineffective in eliminating or significantly minimizing pollutants from sources identified under Part IV.D.2 of the permit, or is otherwise not achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity; and
3. the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the SWPPP (see Permit Part IV.C.3 (Keeping Plans Current) and VI.E (Duty to Provide Information)). The plan must also be amended to address any measures necessary to protect endangered and threatened species or historic properties. Amendments to the plan may be reviewed by LDEQ in the same manner as described in Permit Part IV.B. (Signature, Plan Review, and Making Plans Available).

S. CONTENTS OF THE PLAN

Storm water pollution prevention plans must include a site description; a description of controls that will be used at the site (e.g., erosion and sediment controls, storm water management measures, as well as other controls); a description of maintenance and inspection procedures; construction site inspection and inspection reports, a description of pollution prevention measures for any non-storm water discharges that exist; and areas where final stabilization has been accomplished and no further construction-phase permit requirements apply. These requirements are defined in detail in Permit Part IV.D. (Contents of Plan).

T. ADDITIONAL REQUIREMENTS

This general permit would authorize storm water discharges associated with industrial activity from a construction site that is mixed with a storm water discharge from an industrial source other than construction, only under the following conditions:

1. the industrial source other than construction is located on the same site as the construction activity and is permitted under a separate LPDES permit; and
2. storm water discharges from where the construction activities are occurring are in compliance with the terms of the permit.

Fact Sheet for General Permit Number LAR100000 – AI 83363

Page 17 of 19

U. RETENTION OF RECORDS

The permittee is required to retain records or copies of SWPPPs and all records and reports required by this permit for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of LDEQ at any time.

The permittee shall retain a copy of the SWPPP required by the permit (including a copy of the permit language) at the construction site (or other local site accessible to LDEQ and the public) from the date of project initiation to the date of final stabilization. The permittees with day-to-day operational control over pollution prevention plan implementation shall have a copy of the plan available at a central location on-site for the use of all operators and those identified as having responsibilities under the plan whenever they are on the construction site. A copy of the plan must be readily available to inspectors during normal business hours.

V. PERMIT FEES

At the time of proposed issuance, the annual maintenance and surveillance fee for site-specific coverage under this permit for individual sites will be \$264.00. A twenty percent surcharge (up to a maximum surcharge of \$150.00) will be added to the annual fee for individual sites located in the following basins: Atchafalaya River, Barataria, Lake Pontchartrain, Mississippi River, and Terrebonne. Monies collected through this surcharge are deposited in the Oyster Sanitation Fund, which is used to support molluscan sanitation efforts. The agency may adjust fee amounts at a later date by promulgation of same, in the Louisiana Administrative Code.

W. NOTICE OF TERMINATION

A discharger must submit a Notice of Termination form to LDEQ within thirty (30) days when either of the following conditions are met:

- (1) final stabilization has been achieved on all portions of the site for which the permittee is responsible (including if applicable, returning agricultural land to its pre-construction agricultural use);
- (2) another operator/permittee has assumed control over all areas of the site that have not been finally stabilized according to Part VI.G.2.d of the Permit; or
- (3) for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

A permittee cannot submit a Notice of Termination without final stabilization unless another party has agreed to assume responsibility for final stabilization of the site.

Notice of Termination forms must be submitted using the form provided by LDEQ (or a photocopy thereof). A copy of the Notice of Termination form and instructions for its completion are attached as Addendum C of the permit and can be photocopied for use. The submission of the Notice of Termination form will assist LDEQ in tracking the status of the discharger.

This proposed permit would define final stabilization for the purpose of submitting a Notice of Termination form as occurring when all soil disturbing activities at the site have been completed

Fact Sheet for General Permit Number LAR100000 – AI 83363
Page 18 of 19

and when a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, and/or geotextiles) have been employed. Establishing at least 70% of the natural cover of native vegetation meets the vegetative cover criteria for final stabilization. For example, if the native pre-construction vegetation covers 50% of the ground, 70% of 50% would require 35% total cover for final stabilization.

The Notice of Termination form requires the following information:

1. The Storm Water Permit Authorization number (LAR10XXXX) that was assigned by LDEQ Water Permits Division to the construction project;
2. Why the Notice of Termination form is being submitted:
 - a. Because the permittee is no longer the Operator of the Facility; or
 - b. Because the storm water discharge is being terminated.
3. The name, address, telephone number, and LDEQ Agency Interest # of the operator of the construction site for which the notification is submitted;
4. The name of the project and the physical location of the project for which the termination form is submitted;
5. The following certification:

"I certify under penalty of law that all storm water discharges associated with construction activity from the identified facility that are authorized by a LPDES general permit have been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with industrial activity under this general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the State is unlawful under the Clean Water Act where the discharge is not authorized by a LPDES permit. I also understand that the submittal of this Notice of Termination does not release an operator from liability for any violation of this permit or the Clean Water Act."

The Notice of Termination form must be signed by the appropriate individual in accordance with the signatory requirements of the permit. A description of these signatory requirements is provided in Permit Part VI.G.

The Notice of Termination form is to be sent to the Office of Environmental Services, Water Permits Division, Post Office Box 4313, Baton Rouge, LA 70821-4313.

Submittal of a Notice of Termination form, by itself, does not relieve permittees from the obligations of the permit, such as the requirement to stabilize the site. Appropriate enforcement actions may still be taken for permit violations where a permittee submits a Notice of Termination form but the permittee has not transferred operational control to another permittee or the site has not undergone final stabilization.